

**TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE**



FISCAL NOTE

HB 1067 - SB 1340

March 22, 2013

SUMMARY OF BILL: Reorganizes the Board of Parole. Increases the number of board members to nine, and removes the authority to appoint hearing officers. The Speaker of the House of Representatives, the Speaker of the Senate, and the Governor each appoint one board member from each grand division of the state. Each appointing authority is to appoint a board member who is a former district attorney general, assistant district attorney general, former general sessions, trial or appellate judge, former law enforcement official, or former district public defender or assistant district public defender. The Speaker of the Senate appoints such a member from east Tennessee; the Speaker of the House of Representatives from middle Tennessee; and the Governor from west Tennessee. Vacancies are filled by the appointing authority who selected the vacating member.

Members can be removed by the Governor or by 2/3 of the each house of the General Assembly in the same manner provided by Article VI, § 6 of the Constitution of Tennessee for the removal of judges.

The board members elect their chairman to a two-year term. Requires deliberations by the board concerning an inmate be by public ballot or public roll call, but the election of the chair of the board may be private.

Provides that the compensation for each board member shall be determined by adding the amount members of the current board were paid from June 30, 2012 to June 30, 2013 and dividing that number by the nine (9) board members that will comprise the new board.

The board shall be divided into three panels with the three east Tennessee members constituting the east panel; the three middle Tennessee members constituting the middle panel; and the three west Tennessee members constituting the west panel.

Requires all hearings to be heard by all three members of the panel serving the institution in which the inmate is incarcerated. All grants, denials, rescissions, and revocations require a 2/3 concurrence of the panel that attended the hearing.

All nine board members must sit for parole hearings of Class A and Class B felons. Grants and revocations of Class A and Class B felons require concurrence from six of the nine members.

If the member on a panel who is a former district attorney general, assistant district attorney general, former general sessions, trial or appellate judge, former law enforcement official, or former district public defender or assistant district public defender believes such member cannot attend a hearing on a particular inmate because the member has a conflict that occurred while

the board member was still a district attorney, judge, law enforcement official or public defender, the chair of the board shall designate one (1) of the district attorney, judge, law enforcement official or public defender members from one (1) of the other two (2) panels to hear the matter.

Makes open to public inspection all records pertaining to an inmate considered for parole or released, including notes of the department, the board, or the inmate's parole officer. Also makes public record of all letters, emails, or other communications sent to the board or an employee of the board in support of or in opposition to an inmate's parole, except for communications sent by a victim or on the victim's behalf if the victim chooses to make such communication confidential.

Declares that all rules and regulations in conflict with the proposed legislation will become null and void upon the proposed legislation becoming law. Prohibits the board from promulgating any rule or regulation in conflict with the proposed legislation.

ESTIMATED FISCAL IMPACT:

Decrease State Expenditures – \$809,900/Recurring

Increase State Expenditures - \$106,448,900/Incarceration*

Other Fiscal Impact – The net impact above only reflects the increased expenditures that will result from the first year of operation under the proposed structure of the Board of Parole. The average delay of a parole grant will increase exponentially until the tenth year. It is assumed that the increased cost of incarceration in the tenth year would exceed \$500,000,000.

Assumptions:

- According to the Board of Parole (BOP), the BOP could not perform its statutory duties under the structure of the board as proposed by the legislation.
- For purposes of this note, it is assumed that the proposed structure of the BOP would be able to adequately perform its statutory duties.
- The bill prohibits the board members from appointing any hearing officers. Currently, the BOP employs 18 hearing officers at a salary of \$33,900. Each hearing officer results in recurring expenditures of \$44,994 [$\$33,900 \times (\$33,900 \times .1503 \text{ benefits}) + \$5,999.28 \text{ insurance}$]. The state expends \$809,892 each year for hearing officers ($\$44,994 \times 18$). It is assumed that the Board would continue to employ support staff, such as docket techs and victims' assistants, to conduct its business .
- The bill would result in a decrease in state expenditures of \$809,892.
- However, even if each of the nine members could clear the same number of parole hearings per year that each of the current hearing officials clear (7 board members + 18 hearing officers = 25 hearing officials), the bill would result in increased incarceration costs. The nine hearing officials under the legislation are approximately one-third of the


number of current hearing officials ($9 / 25 = .36$). They could, at most, clear one-third of the parole hearings currently cleared by the BOP.

- According to the BOP's 2011-2012 Annual Report (<http://www.tn.gov/bopp/Docs/100112--2011-12%20Annual%20Report.pdf>), the BOP conducted 18,444 parole hearings and granted approximately 6,065 paroles, or 32.88 percent. Each of the current hearing officials conducts approximately 737.76 hearings per year (18,444 hearings / 25 hearing officials).
- Assuming the nine member board could conduct the same number of hearings per board member as are conducted by the current hearing officials, the nine member board would conduct 6,639.84 hearings each year (737.76 hearings x 9 members).
- Assuming the same percentage of paroles that are currently granted—32.88 percent—will be granted under the nine member board, the bill would result in 2,183.18 parole grants each year. The bill would result in 3,881.82 parole grants per year being delayed (6,065 – 2,183.18).
- It is assumed for purposes of this note that every parole granted results in release from state custody.
- Inmates whose parole would be granted in year one will be delayed anywhere from eight months to 20 months. It is assumed that the average parole grant will be delayed 14 months or 1.17 years (14 months / 12 months).
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2013 is \$64.17.
- The bill would result in 3,881.82 inmates remaining incarcerated for an additional 1.17 years (427.34 days). The bill would increase incarceration costs by \$106,448,851 [$(\$64.17 \times 427.34 \text{ days}) \times 3881.82$] after the first year of operation.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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